

Amendment No. 2 to SB0841

Johnson  
Signature of Sponsor

**AMEND Senate Bill No. 841**

**House Bill No. 511\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-13-202(a)(2), is amended by deleting the language "act of terrorism,".

SECTION 2. Tennessee Code Annotated, Section 39-13-202(a), is amended by adding the following as a new subdivision:

(4) A killing of another in the perpetration or attempted perpetration of an act of terrorism in violation of § 39-13-805.

SECTION 3. Tennessee Code Annotated, Section 39-13-202, is amended by deleting subsection (b) and substituting:

(b) No culpable mental state is required for conviction under subdivisions (a)(2) - (4), except the intent to commit the enumerated offenses or acts in those subdivisions.

SECTION 4. Tennessee Code Annotated, Section 39-13-202, is amended by deleting subsection (c) and substituting:

(c)

(1) Except as provided in subdivision (c)(2), a person convicted of first degree murder under subdivisions (a)(1) - (4) shall be punished by:

(A) Death;

(B) Imprisonment for life without possibility of parole; or

(C) Imprisonment for life.

(2) If a person convicted of first degree murder under subdivision (a)(4) was an adult at the time of commission of the offense, then the person shall be punished by:

(A) Death; or

(B) Imprisonment for life without possibility of parole.

SECTION 5. Tennessee Code Annotated, Section 39-13-204(e)(2), is amended by deleting the language "three (3)" and by deleting the second sentence of the subdivision and substituting:

If the defendant has been found guilty of first degree murder as described in § 39-13-202(c)(1), then the jury shall be instructed that a defendant who receives a sentence of imprisonment for life shall not be eligible for parole consideration until the defendant has served at least fifty-one (51) full calendar years of the sentence.

SECTION 6. Tennessee Code Annotated, Section 39-13-204(f)(1), is amended by deleting the language "If the jury unanimously determines" and substituting instead "If the defendant has been found guilty of first degree murder as described in § 39-13-202(c)(1) and the jury unanimously determines".

SECTION 7. Tennessee Code Annotated, Section 39-13-204(f)(2), is amended by deleting the language "If the jury unanimously determines" and substituting instead "Except as provided in subdivision (f)(2)(B), if the jury unanimously determines".

SECTION 8. Tennessee Code Annotated, Section 39-13-204(f), is amended by designating the current subdivision (f)(2) as subdivision (f)(2)(A) and inserting the following new subdivision (f)(2)(B):

(B)

(i) If the defendant has been found guilty of first degree murder as described in § 39-13-202(c)(2) and the jury unanimously determines that no statutory aggravating circumstance has been proven by the state beyond a reasonable doubt, or that a statutory aggravating circumstance or circumstances

have been proven by the state beyond a reasonable doubt, but that such circumstance or circumstances have not been proven by the state to outweigh any mitigating circumstance or circumstances beyond a reasonable doubt, then the sentence shall be imprisonment for life without possibility of parole.

(ii) If imprisonment for life without possibility of parole is the sentence of the jury, then the jury shall reduce to writing the finding that no statutory aggravating circumstance or circumstances have been proven by the state beyond a reasonable doubt, or that a statutory aggravating circumstance or circumstances have been proven by the state beyond a reasonable doubt, but that such circumstance or circumstances have not been proven by the state to outweigh any mitigating circumstance or circumstances beyond a reasonable doubt.

(iii) These findings and verdict must be returned to the judge upon a form provided by the court, which may appear substantially as follows:

PUNISHMENT OF IMPRISONMENT FOR LIFE WITHOUT POSSIBILITY  
OF PAROLE

[ ] We, the jury, unanimously agree that no statutory aggravating circumstance or circumstances have been proven by the state beyond a reasonable doubt and that the defendant shall be sentenced to imprisonment for life without possibility of parole.

[ ] We, the jury, unanimously agree that a statutory aggravating circumstance or circumstances have been proven by the state beyond a reasonable doubt, but that such circumstance or circumstances have not been proven by the state to outweigh any mitigating circumstance or circumstances beyond a reasonable doubt and that the defendant shall be sentenced to imprisonment for life without possibility of parole.

/s/ \_\_\_\_\_  
Jury Foreperson

/s/ \_\_\_\_\_  
Juror

/s/ \_\_\_\_\_  
Juror

/s/ \_\_\_\_\_  
Juror

/s/ \_\_\_\_\_  
Juror

/s/ \_\_\_\_\_  
Juror

/s/ \_\_\_\_\_  
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/s/ \_\_\_\_\_  
Juror

/s/ \_\_\_\_\_  
Juror

/s/ \_\_\_\_\_  
Juror

SECTION 9. Tennessee Code Annotated, Section 39-13-204(h), is amended by deleting the language "If the jury cannot ultimately agree on punishment," and substituting instead "Except as provided in subdivision (h)(2), if the jury cannot ultimately agree on punishment,".

SECTION 10. Tennessee Code Annotated, Section 39-13-204, is amended by designating the current subsection (h) as subdivision (h)(1) and inserting the following new subdivision (h)(2):

(2) If the defendant has been found guilty of first degree murder as described in § 39-13-202(c)(2), but the jury cannot ultimately agree on punishment, then the trial judge shall inquire of the foreperson of the jury whether the jury is divided over imposing a sentence of death. If the jury is divided over imposing a sentence of death, then the judge shall dismiss the jury and the judge shall impose a sentence of imprisonment for life without possibility of parole. The judge shall not instruct the jury, nor shall the attorneys be permitted to comment at any time to the jury on the effect of the jury's failure to agree on a punishment.

SECTION 11. Tennessee Code Annotated, Section 39-13-204(i), is amended by deleting the language "No death penalty or sentence of imprisonment for life without possibility of parole shall be imposed" and substituting "Except as provided in subdivision (f)(2)(B) and

(h)(2), no death penalty or sentence of imprisonment for life without possibility of parole shall be imposed".

SECTION 12. Tennessee Code Annotated, Section 39-13-204(k), is amended by deleting the language "the new trial shall include the possible punishments of death, imprisonment for life without possibility of parole or imprisonment for life" and substituting:

the new trial shall include the possible punishments of death, imprisonment for life without possibility of parole, or, unless the defendant is convicted of first degree murder as described in § 39-13-202(c)(2), imprisonment for life

SECTION 13. Tennessee Code Annotated, Section 39-13-206, is amended by deleting the language "imprisonment for life without possibility of parole or imprisonment for life" wherever it appears and substituting "imprisonment for life without possibility of parole or, if applicable, imprisonment for life".

SECTION 14. Tennessee Code Annotated, Section 39-13-207, is amended by deleting the language "In any first degree murder case" in subsection (a) and substituting "In any first degree murder case as described in § 39-13-202(c)(1)".

SECTION 15. Tennessee Code Annotated, Section 39-13-207(a), is amended by designating the current language as subdivision (a)(1) and adding the following as a new subdivision (a)(2):

(2) In any first degree murder case as described in § 39-13-202(c)(2) in which the state does not seek the death penalty, if the jury finds the defendant guilty of first degree murder, then a sentencing hearing shall not be conducted as required by § 39-13-204; and the judge shall sentence the defendant to imprisonment for life without the possibility of parole.

SECTION 16. Tennessee Code Annotated, Section 39-13-207(b), is amended by deleting the language "If the jury unanimously determines" and substituting instead "If the defendant has been found guilty of first degree murder as described in § 39-13-202(c)(1) and the jury unanimously determines".

SECTION 17. Tennessee Code Annotated, Section 39-13-207(c), is amended by deleting the language "If the jury unanimously determines" and substituting the language "Except as provided in § 39-13-204(f)(2)(B), if the jury unanimously determines".

SECTION 18. Tennessee Code Annotated, Section 39-13-207(g), is amended by deleting the language "A sentence of imprisonment for life without possibility of parole" and substituting the language "Except as provided in § 39-13-204(f)(2)(B), a sentence of imprisonment for life without possibility of parole".

SECTION 19. Tennessee Code Annotated, Section 39-13-208(b), is amended by deleting the third sentence and substituting:

The notice shall specify that the state intends to seek the sentence of imprisonment for life without possibility of parole and, unless the offense charged is a violation as described in § 39-13-202(c)(2), the notice shall specify the aggravating circumstance or circumstances the state intends to rely upon at a sentencing hearing.

SECTION 20. Tennessee Code Annotated, Section 39-13-805, is amended by deleting subsection (b) and substituting:

(b)

(1) An act of terrorism is a Class A felony.

(2) If the act of terrorism results in the loss of human life, the defendant shall be prosecuted and sentenced for first degree murder, under § 39-13-202, rather than under this section.

SECTION 21. Tennessee Code Annotated, Section 39-13-803(1), is amended by adding the following as a new subdivision:

(D) Serve as a premeditated, politically motivated act of violence, or violence in pursuit of religious, ideological, or social objectives, perpetrated against first responders, including law enforcement officers, correctional officers, department of correction employees, probation or parole officers, paramedics, firefighters, or other emergency

medical rescue workers acting in their official capacity, which results in loss of life, in which case it must be prosecuted and sentenced under § 39-13-202;

SECTION 22. This act takes effect July 1, 2021, the public welfare requiring it.